

**EXHIBIT A  
ORDINANCE 15-06**

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**DROUGHT CONTINGENCY PLAN**

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## **CITY OF BRECKENRIDGE, TEXAS DROUGHT CONTINGENCY PLAN**

### **Section I. Declaration of Policy, Purpose, and Intent**

A Drought Contingency Plan (Plan) is defined as, "A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies" (30 TAC Chapter 288, Subchapter A, §288.1,4). The City of Breckenridge has established this Plan in order to establish criteria for determining various stages of drought and to establish corresponding policies that will be enforced during each stage of drought or during times of other water shortage or in times of emergency.

Water uses regulated or prohibited under this Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

### **Section II. Authorization**

The City Manager or his/her designee, is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

### **Section III. Application**

The provisions of this Plan shall apply to all customers utilizing water provided by the City of Breckenridge. The terms person and customer as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

### **Section IV. Measures to Inform and Educate the Public**

The Drought Contingency Plan and its corresponding program will be made a part of any presentations that may be conducted annually by the City as discussed above in Section X of the Water Conservation Plan. In addition, during the enforcement of any stage of drought, the public will be made aware of conservation and drought conditions by information and data transfer through the City's program, including presenting information on the City's website. During periods of drought curtailment, Stage 1 conditions will establish an Information Center with staff, and utilize the most effective methods developed for information dissemination on a regular basis.

Close observation of the information program should determine the most effective ways to communicate with customers. The City's website, posted notices, newspaper articles, radio coverage and direct mail to customers may be used to convey information during drought conditions.

## **Section V. Measures to Inform and Educate Wholesale Users**

The City of Breckenridge no longer provides wholesale water service. In the event the City acquires new wholesale customers, the City will periodically provide wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided via the City's website and by a copy of the Plan, or periodically including information about the Plan with invoices for water sales.

## **Section VI. Procedures for Initiation and Termination**

### Initiation Procedures:

Initiation of each drought condition will begin upon the discovery of the existence of any of the criteria set forth in this Plan for the given drought condition. Each condition will be met with corresponding action by the City Manager or his/her designee who will affect curtailment, give notice, and publicize and implement the curtailment procedures. During any period of drought curtailment, the City Manager or his/her designee will disseminate information via the Information Center utilizing local media and public postings. The City Manager or his/her designee shall notify directly, or cause to be notified directly the Texas Commission on Environmental Quality (TCEQ) when mandatory restrictions are imposed.

### Termination Procedures:

Termination of each drought condition will begin when that specific condition has been improved to the extent that an upgraded condition can be declared by the City Manager. This process will be employed until full service can be provided. System priority will be considered in return to upgraded condition, discontinuing restrictions to hospitals, schools, etc., in priority order. The City Manager or his/her designee will notify the public upon lifting of any stage of drought curtailment. The City Manager or his/her designee will notify the TCEQ directly, or cause the TCEQ to be notified directly within five (5) days of mandatory drought restrictions are lifted.

## **Section VII. Triggering Criteria**

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a monthly basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper of general circulation, direct mail to each customer and/or signs posted in public places.

Wholesale customers will be notified both by telephone and mail. The City Manager will notify the TCEQ in writing within five (5) days of entering or rescinding of any mandatory water restrictions defined below.

The triggering criteria described below are based on a statistical analysis of the vulnerability of the water source under drought of record conditions.

**(a) Stage 1 - Mild Drought Conditions**

Requirements for initiation –

1. The water surface elevation in Hubbard Creek Reservoir is at 1,170 to 1155.01 feet msl; or
2. Daily water consumption will not enable distribution storage levels to be maintained under full operation of the system for two consecutive days; or
3. Any mechanical failure of pumping or storage equipment, or essential water treatment facility equipment has occurred that limits but does not stop the production and/or supply of water and that will require more than 24 hours to repair.

Requirements for termination –

Stage 1 of the Plan may be rescinded when

1. Hubbard Creek Reservoir is above 1,170 feet msl for 30 consecutive days; and
2. Daily water consumption decreases to the point that distribution storage levels are restored to full capacity during low demand periods for two consecutive days.
3. Repairs have been made to pumping or storage equipment, or essential water treatment facility equipment which had caused Stage 1 to have been implemented.

**(b) Stage 2 - Moderate Drought Conditions**

Requirements for initiation –

1. The water surface elevation in Hubbard Creek Reservoir is at 1,155 -to 1,153.01 feet msl;
2. The average daily water consumption will not enable storage levels to be maintained under full operation of the system for three consecutive days; or
3. Any mechanical failure of pumping or storage equipment, or essential water treatment facility equipment has occurred that limits but does not stop the production and/or supply of water and that will require more than 48 hours to repair.

Requirements for termination –

Stage 2 of the Plan may be rescinded when

1. Hubbard Creek Reservoir is above 1,155 feet msl for 30 consecutive days.
2. Daily water consumption decreases to the point that distribution storage levels are restored to full capacity during low demand periods for three consecutive days.
3. Repairs have been made to pumping or storage equipment, or essential water treatment facility equipment which had caused Stage 2 to have been implemented.

**(c) Stage 3 - Severe Drought Conditions**

Requirements for initiation –

1. The water surface elevation in Hubbard Creek Reservoir is at 1,153 to 1,150.01 feet msl;
2. The average daily water consumption will not enable storage levels to be maintained under full operation of the system for four consecutive days; or
3. Any mechanical failure of pumping or storage equipment, or essential water treatment facility equipment has occurred that limits but does not stop the production and/or supply of water and that will require more than 72 hours to repair.

Requirements for termination –

Stage 3 of the Plan may be rescinded when

1. Hubbard Creek Reservoir is above 1,153 feet msl for 30 consecutive days.
2. Daily water consumption decreases to the point that distribution storage levels are restored to full capacity during low demand periods for four consecutive days.
3. Repairs have been made to pumping or storage equipment, or essential water treatment facility equipment which had caused Stage 3 to have been implemented.

**(d) Stage 4 - Emergency Conditions**

Requirements for initiation - The City of Breckenridge will recognize that an emergency water shortage condition exists when any of the following occur:

1. Hubbard Creek Reservoir is at 1,150 feet msl or below, or;

2. The water system is contaminated either accidentally or intentionally. The severe condition is reached immediately upon detection; or
3. The water system fails to produce water, whether from acts of God (tornados) or mechanical breakdown or any other reason. The severe condition is reached immediately upon detection.

Requirements for termination –

Stage 4 of the Plan may be rescinded when the water system has been restored to routine operation and the conditions which caused Stage 4 to be initiated are no longer present.

**Section VIII. Drought Response Stages**

The Water Conservation and Drought Contingency Ordinance, adopted and included as part of this Plan (Appendix E), enables the City Manager to initiate action that will effectively implement the Drought Contingency Plan. The following steps will be followed for each stage of drought:

**Stage 1 - Mild Water Shortage Conditions**

Target Water Use:

The goal for water use reduction under this drought stage is to limit total treated water use by all system users to less than 3.4 MGD.

Demand Management Measures:

Stage 1 curtailment shall be initiated upon existence of mild drought conditions. The City Manager and/or his staff shall:

- a. Develop an Information/Education Center and designate an Information Person.
- b. Advise the public of the drought condition and publicize the availability of information from the Information Center.
- c. Encourage the voluntary reduction of water use.
- d. Contact commercial users and explain the necessity for initiation of strict conservation methods.
- e. Wasting water is prohibited and is defined as: allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than 75 feet from the downgrade of the property line; failure to repair a controllable leak including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
- f. Provide warnings for violations.

- g. Make adjustments to the program to meet changing conditions.

Notification of System Users:

- h. The City Manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use.
- i. The City Manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.
- j. The City Manager will notify retail water users through local media outlets, wholesale customers via phone and written correspondence, and the TCEQ via phone and written correspondence within five working days of rescinding Stage 1 restrictions.

**Stage 2 - Moderate Water Shortage Conditions**

Target Water Use:

The goal for water use reduction under this drought stage is to limit total treated water use by all system users to less than 3.0 MGD.

Demand Management Measures:

Stage 2 curtailment shall be initiated by the City Manager on his identifying moderate drought conditions. The City Manager and/or his staff shall:

- a. Continue the use of an Information/Education Center and designate or continue the use of an Information Person.
- b. Advise the public of the drought condition and publicize the availability of information from the Information Center.
- c. Watering of lawns, landscaped areas, gardens, flowerbeds, trees, shrubs, or other plants by all commercial, industrial, and residential customers utilizing sprinklers or sprinkler system is permitted on the designated trash pickup day which shall be once every week and then only during the hours of 6:00 p.m. until 12:00 midnight.
- d. Watering of lawns by all commercial, industrial, and residential customers is permitted at any time on any day if: a garden hose is used and is held in the hand during the duration of the irrigation event or a faucet-filled container of five (5) or less is used.

- e. Watering of gardens, flowerbeds, trees and shrubs, by all commercial, industrial, and residential customers is permitted at any time on any day only if: a garden hose is used and is held in the hand during the duration of the irrigation event, or a faucet-filled container of five (5) gallons or less is used, or a drip irrigation system such as soaker hose, deep root system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressure directly onto the soil surface or below the soil surface without airborne streams or droplets.
- f. It is permissible to wash vehicles under the following conditions: Automobiles, trucks, trailers, boats and other types of mobile equipment at any time on the immediate premises of a commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses. If the health, safety and welfare of the public depends on frequent vehicle cleaning as determined by the City Manager or his/her designee, the washing of vehicles such as emergency vehicles, aircraft, garbage trucks and vehicles used to transport food and perishables will be allowed. Charity car washes are prohibited.
- g. Wasting water is prohibited and is defined as: allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than 75 feet from the downgrade of the property line; failure to repair a controllable leak including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
- h. Provide for one (1) warning, then a citation for violation.
- i. Monitor the system function and establish hours for outside water use, depending upon the system performance.
- j. Visit commercial users to ensure voluntary conservation has been initiated.

Notification of System Users:

- k. The City Manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate mandatory curtailment in their systems.
- l. The City Manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.



- m. The City Manager will notify retail water users through local media outlets, wholesale customers via phone and written correspondence, and TCEQ via phone and written correspondence within five working days of rescinding Stage 2 restrictions.

### **Stage 3 - Severe Water Shortage Conditions**

#### Target Water Use:

The goal for water use reduction under this drought stage is to limit total treated water use by all system users to less than 2.4 MGD.

#### Demand Management Measures:

Stage 3 curtailment shall be initiated upon the existence of severe drought or emergency conditions. The City Manager and/or his staff shall:

- a. Develop or continue the use of an Information/Education Center and designate or continue the use of an Information Person.
- b. Advise the public of the drought condition and publicize the availability of information from the Information Center.
- c. Wasting water is prohibited and is defined as: allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than 75 feet from the downgrade of the property line; failure to repair a controllable leak including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
- d. Ban the use of non-essential water for other than health, safety, and sanitary purposes. Non-essential water use include washing house windows, sidings, eaves, or roof with a hose; washing driveways, streets, curbs, or gutters; fire hydrant flushing; water system flushing; watering athletic fields; dust control sprinkling; draining and/or filling swimming pools except for the City pool, construction of new swimming pools is prohibited; maintaining of water level in existing pools is allowed.
- e. Use of fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety, and welfare. By written approval of the City Manager or his designee, businesses may purchase water and draw from fire hydrants for land development and building construction. Other businesses requiring water as a basic necessity of their operation, such as nurseries, commercial car washes, laundromats, high pressure water cleaning services, etc. will also obtain written permission from the City Manager.
- f. Watering of landscape gardens, flowerbeds, trees, shrubs, but not lawns, by all commercial, industrial, and residential customers is permitted at any time on any day only if: a garden hose is used and is held in the hand during the duration of the irrigation event, or a faucet-filled container of five (5) gallons or less is used, or a drip irrigation system such as soaker

hose, deep root system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressure directly onto the soil surface or below the soil surface without airborne streams or droplets. Watering of lawns utilizing sprinklers or sprinkler systems is not permitted at any time. No new lawns may be installed.

- g. Ornamental fountains are allowed if equipped with a recycling system; construction of new ornamental fountains is not allowed.
- h. It is permissible to wash vehicles under the following conditions: Automobiles, trucks, trailers, boats and other types of mobile equipment at any time on the immediate premises of a commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses. If the health, safety and welfare of the public depends on frequent vehicle cleaning as determined by the City Manager or his/her designee, the washing of vehicles such as emergency vehicles, aircraft, garbage trucks and vehicles used to transport food and perishables will be allowed. Charity car washes are prohibited.
- i. Provide for issuance of citations for violations.
- j. Explore the possibility of utilizing alternative water sources and/or alternative delivery mechanisms with prior approval from TCEQ as appropriate.
- k. A system priority will be established. Those users with the highest priority will be the last to have their water use restricted. The system priority is as follows:
  - i. Hospitals
  - ii. Residential
  - iii. Schools
  - iv. Industrial
  - v. Commercial
  - vi. Recreational

Notification of System Users:

- l. The City Manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate mandatory curtailment in their systems.
- m. The City Manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

- n. The City Manager will notify retail water users through local media outlets, wholesale customers via phone and written correspondence, and the TCEQ via phone and written correspondence within five working days of rescinding Stage 3 restrictions.

#### **Stage 4 - Emergency Water Shortage Conditions**

##### Target Water Use:

The goal for water use reduction under this drought stage is to limit total treated water use by all system users to less than 0.7 MGD.

##### Demand Management Measures:

Whenever emergency water shortage conditions exist, the City Manager shall:

- a. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
- b. Notify system users (public) to reduce water use which includes prohibitions on:
  - i. All outdoor irrigation of vegetation using potable water, and
  - ii. Washing of mobile equipment except for public health and safety reasons,
  - iii. Maintaining swimming pool levels,
  - iv. Operation of ornamental fountains, and
  - v. Commercial and industrial users must maintain a 15% reduction of water use compared to the same month of the previous year. A surcharge will be assessed for any water consumption that does not comply. Multiple offences will incur penalties and/or cutoff. If service is discontinued due to multiple offenses, the reconnect fee will be \$500.
- c. If appropriate, notify city, county, and/or state emergency response officials for assistance.
- d. Undertake necessary actions, including repairs and/or clean-up as needed.
- e. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

##### Notification of System Users:

- f. The City Manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate mandatory curtailment in their systems.
- g. The City Manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

- h. The City Manager will notify retail water users through local media outlets, wholesale customers via phone and written correspondence, and the TCEQ via phone and written correspondence within five working days of rescinding Stage 4 restrictions.

## **Section IX. Pro Rata Water Allocation**

In the event that the triggering criteria specified in Section VII of the Plan for Stage 3 - Severe Water Shortage Conditions have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

1. A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by Ordinance of the Commission based on the City Manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by Ordinance of the Commission as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the allocation established for each month.
2. A monthly water usage allocation shall be established by the City Manager, or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the most recent three-year period as shown in the example given below. If the wholesale water customer's billing history is less than three years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>	<b>ALLOCATION PERCENTAGE</b>
Jan	4.187	4.021	4.332	4.180	75%
Feb	4.520	3.291	3.868	3.893	75%
Mar	4.870	4.154	4.433	4.486	75%
Apr	4.740	4.004	5.422	4.722	75%
May	6.812	4.866	7.551	6.410	75%
Jun	6.477	8.500	8.257	7.745	75%
Jul	7.668	9.877	9.090	8.878	75%
Aug	5.977	6.565	8.795	7.112	75%
Sep	4.975	6.325	8.831	6.710	75%
Oct	4.358	5.002	6.888	5.416	75%
Nov	3.960	4.407	5.257	4.541	75%
Dec	4.658	4.509	4.765	4.644	75%

\*UNITS IN MILLION GALLONS PER MONTH

3. The City Manager shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the TCEQ upon initiation of pro rata water allocation.
4. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another wholesale customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Commission of the City of Breckenridge.

## **Section X. Means of Adoption, Implementation and Enforcement**

Adoption of this Plan will enable the City Manager to implement and carry out enforcement of enacted ordinances to make the Plan effective and workable. During any stage of drought or during emergencies, all city employees shall have instruction to monitor water use by the public in order to observe that the policies of the given stage of drought are being practiced. Those customers observed to be in violation shall be reported to the City Manager or the Code Enforcement Officer, who along with designated members of their staff shall issue citations for each reported violation. In addition, residents who observe violations may also report said violations to the City Manager or Code Enforcement Officer. This method of enforcement shall be publicized via the education program of this Plan.

### **1. Penalties**

Direct-billed Retail Water Customers: Users of City water that do not comply with the requirements of the drought contingency measures will be subject to a penalty and fine for each non-compliance. These users will also be subject to disconnection or discontinuance of City water services. These fines shall be as follows:

- |                |                            |
|----------------|----------------------------|
| a) 1st offense | \$75.00                    |
| b) 2nd offense | \$100.00                   |
| c) 3rd offense | \$200.00                   |
| d) 4th offense | Discontinuation of Service |

Wholesale Customers: Any new or renewed wholesale water contracts with political subdivisions and/or other wholesale customers who desire to purchase water from the City of Breckenridge will be required to adopt a drought contingency plan or adopt the City of Breckenridge Drought Contingency Plan. Future wholesale contracts will require the management body of the said entity to enforce their plan. Failure of a wholesale entity to enforce a Plan during any period of drought or

emergency will result in a penalty or fine that shall be set forth in the wholesale water contract or amended contract.

## **Section XI. Variances**

The City Manager, or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City Manager within 5 days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the City Commission, and shall include the following:

1. Name and address of the petitioner(s).
2. Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
3. Description of the relief requested.
4. Period of time for which the variance is sought.
5. Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
6. Other pertinent information.

Variances granted by the City Commission shall be subject to the following conditions, unless waived or modified by the City Commission or its designee:

1. Variances granted shall include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

## **Section XII. Coordination with Region G Planning Group**

The water service area of the City of Breckenridge is located within the Region G Water Planning Group planning area. The City of Breckenridge has provided a copy of the Plan to the Region G Water Planning Group (Appendix F).

## **Section XIII. Modification, Deletion and Amendment**

Modification to this Plan in any form shall be presented for public discussion and approved by the City Commission in accordance with all State and local laws. The City of Breckenridge will review and update this Drought Contingency Plan, as appropriate. As a minimum the Plan will be updated again before May 1, 2019 and every five (5) years thereafter.

## **Section XIV. Reporting Requirement**

Under the conditions of this Plan the City Manager shall be responsible for preparing the annual report seen and described in Texas Water Development Board's form WRD-265 (Water Conservation Program Annual Report).

## **Section XV. Severability**

It is hereby declared to be the intention of the City of Breckenridge that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City of Breckenridge without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.